

From: [David Bryant](#)
To: [Sharon Murray](#)
Subject: FW: Pretrial Disclosure and other Questions
Date: Monday, August 5, 2024 5:39:59 PM

From: Lynk, Brian (ENRD) <Brian.Lynk@usdoj.gov>
Sent: Wednesday, July 31, 2024 10:30 PM
To: Kyle Tebo <Kyle.Tebo@oag.texas.gov>
Cc: Johnathan Stone <Johnathan.Stone@oag.texas.gov>; David Bryant <David.Bryant@oag.texas.gov>; Munera Al-Fuhaid <Munera.Al-Fuhaid@oag.texas.gov>; Zachary Berg <Zachary.Berg@oag.texas.gov>; Harrison, Bryan (ENRD) <Bryan.Harrison@usdoj.gov>; Wade, Landon (USATXW) <Landon.Wade@usdoj.gov>; Kimball, Kimere (ENRD) <Kimere.Kimball@usdoj.gov>; Knudsen, Andrew (ENRD) <Andrew.Knudsen@usdoj.gov>; Lynch, Shelbie (ENRD) <Shelbie.Lynch@usdoj.gov>; Woolner, Matthew (ENRD) <Matthew.Woolner@usdoj.gov>
Subject: RE: Pretrial Disclosure and other Questions

Good evening counsel,

While awaiting Texas's response regarding its position on the United States' 60-day stay motion, we respond as a matter of housekeeping (and subject to that motion) to several questions below from Texas, and follow up on an earlier question to Texas:

1. We designated specific portions of those two depositions for potential admission into evidence. We listed the transcripts in their entirety on the exhibit list for any appropriate use at trial.
2. No, that is not the United States' understanding.
3. 5PM may not be realistic in the event trial proceedings ran long; something like within 1 hour following each day's final recess may be more practical.
4. We would agree to an electronic exhibit exchange at 2PM CT tomorrow.
5. We asked last week if Texas was amenable to splitting the cost of daily transcripts; please let us know.

Best regards,

Brian H. Lynk
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From: Kyle Tebo <Kyle.Tebo@oag.texas.gov>
Sent: Tuesday, July 30, 2024 4:06 PM

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Subject: [EXTERNAL] Pretrial Disclosure and other Questions

Dear Counsel,

After reviewing Plaintiff's pretrial disclosures, Texas would like to ask for clarification on the following questions and suggestions:

1. The US has made designations for two depositions as well as the PI hearing testimony of Loren Flossman. Both depositions for which the US made designations are also listed on its Exhibit list. Do these entries refer to the entire deposition testimony or just the designated portions?
2. The US included Michael Chapman on its "will call" witness list. We understand that as a rebuttal expert he will be called for impeachment purposes during Defendant's case in chief and not to provide affirmative evidence during Plaintiff's case in chief. Is that understanding correct?
3. We would like to work out an arrangement whereby we each notify the other side which witnesses we intend to call one day in advance. More specifically, we suggest sharing the identity of next-day witnesses by 5 pm on the day immediately preceding the day we plan to call them on. How does that sound to y'all?
4. Finally, Texas would like to reiterate its proposal from yesterday that the parties agree to share exhibits with one another at the same time we upload them to the Court on Thursday (2 pm central) or very soon thereafter. Is DOJ amenable to this suggestion?

Thanks in advance for getting back to us on these and feel free to let us know if any of the issues you communicated to us yesterday remain unresolved.

Kind regards,

Kyle Tebo